



Town of Nantucket

REQUEST FOR PROPOSALS FOR MOBILE FOOD VEHICLE SERVICES TOWN OF NANTUCKET

The Town of Nantucket invites qualified responders to submit proposals for Mobile Food Services in the Town of Nantucket in designated public beach locations at Dionis Beach and Miacomet Beach. Vendors may submit proposals for all locations or each location separately. Multiple vendors may receive a contract award. This is a pilot project and licenses are being awarded for one (1) year only.

I. GENERAL INFORMATION AND SUBMISSION REQUIREMENTS.

1. Requests for Proposals can be obtained online at www.nantucket-ma.gov on the Procurement page and proposals will be accepted at the Town of Nantucket, Procurement Office, 16 Broad Street, Nantucket, MA 02554, until **1:00 PM, Wednesday, June 8, 2016**. **Three (3) copies of the proposal are required.**
2. Minimum bid accepted per license is \$1,000. Price and non-price (technical) proposals must each be submitted in separate envelopes that are sealed and clearly marked:
Price Proposal for Mobile Food Unit Services
Non-Price (or Technical) Proposal for Mobile Food Unit Services

If the proposal is mailed, the sealed price proposal and separately sealed non-price proposal must both be enclosed in a separate sealed envelope for mailing. **Failure to comply strictly with these requirements may result in the rejection of a proposal.**

3. Proposals shall not be opened publicly, but will be opened in the presence of one or more witnesses. At the opening of the proposals the Chief Procurement Officer shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection. Proposals will not be available to the public until after the evaluation of proposals is complete.
4. Award date. Award will be made within thirty (30) days after proposal opening unless otherwise stated in the specifications or the time for award is extended by mutual consent of all parties. All submittals shall be valid for a minimum period of sixty (60) calendar days following the date established for acceptance. The Town shall award a contract, if at all, to the responsible offeror whose proposal is responsive and the most advantageous taking into consideration price and the evaluation criteria set forth in this Request for Proposals.
5. If any changes are made to this RFP, an addendum will be issued. Addenda will be mailed or faxed to all companies and individuals on record as having requested the RFP. Each responder shall acknowledge receipt of any and all addendum issues by submitting acknowledgment forms provided with any Addenda; and if no such forms are provided with the addenda, on the face of the offeror's non-price proposal. **Failure to do so shall be cause to reject the submittal as being unresponsive.**
6. Questions concerning this RFP must be submitted in writing to Heidi Bauer, Chief Procurement Officer, 16



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Broad Street, Nantucket, MA 02554 **before 4:00 PM, Monday, June 6, 2016.** Questions may be delivered, mailed, emailed (hbauer@nantucket-ma.gov) or faxed. Written responses, if any, will be in the form of addenda to this RFP and will be posted on the Town website and mailed, emailed or faxed to all companies and individuals on record as having requested the RFP.

7. Responses may be modified, corrected or withdrawn only by written notice received by the Town of Nantucket prior to the time and date set for the response opening, except as provided in the next paragraph. Modifications must be submitted in a sealed envelope clearly labeled "Modification No. ____" and must reference the original RFP response.
8. An offeror may correct, modify, or withdraw a proposal by written notice received in the office designated above prior to the time and date set for the receipt of all proposals. After such time and date, an offeror may not change the price or any other provision of the proposal in a manner prejudicial to the interests of the Town or fair competition. The procurement officer shall waive minor informalities or allow the offeror to correct them. If a mistake and the intended bid are clearly evident on the face of the proposal document, the procurement officer shall correct the mistake to reflect the intended correct offer and so notify the offeror in writing, and the offeror may not withdraw the proposal. An offeror may withdraw a proposal if a mistake is clearly evident on the face of the proposal document but the intended correct offer is not similarly evident.
9. Negligence on the part of the responder in preparing the proposal confers no rights for the withdrawal of the proposal after it has been opened.
10. The Town of Nantucket reserves the right to reject any and all responses and to waive any minor informality in responses received whenever such rejection or waiver is in its best interest and to the extent doing so is permitted by law.
11. The Town of Nantucket will not be responsible for any expenses incurred in preparing and submitting responses. All submittals shall become the property of the Town of Nantucket. All plans, specifications and other documents resulting from this contract shall become the property of the Town of Nantucket. All proposals shall be deemed a public record.
12. Responders must be willing to enter into the Town of Nantucket's standard form of contract.
13. The RFP, and any subsequent contract for the services, is hereby issued in accordance with M.G. L. c. 30B.
14. Sealed proposals received prior to the date of opening will be kept unopened. No responsibility will attach to an officer or person for the premature opening of a proposal not properly addressed, sealed and/or identified.
15. Any proposals received after the advertised date and time for opening will be returned to the responder unopened.



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16. Purchases by the Town of Nantucket are exempt from federal, state and municipal sales and/or excise taxes.
17. The Tax Compliance Certification and the Certificate of Non-Collusion , included in this RFP, must be completed, signed, and enclosed with the non-price proposal. These forms must be signed by the authorized individual(s).
18. Unexpected closures. If, at the time of the scheduled response opening, Town Hall is closed due to uncontrolled events such as fire, snow, ice, wind or building evacuation, the response opening will be postponed until 3:00 PM on the next normal business day. Proposals will be accepted until that date and time.
19. The Town of Nantucket is an Affirmative Action/Equal Opportunity Employer. The Town encourages submittals from qualified MBE/DBE/WBE firms.
20. Responders should be aware that many overnight mailing services do not guarantee service to Nantucket.
21. Responses to the RFP must be prepared according to the guidelines set forth herein. Selection of the successful responder will be based upon an evaluation and analysis of the information and materials required under the RFP, and in accordance with section 6 of Chapter 30B of the General Laws.



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II. SCOPE OF SERVICES.

The Town of Nantucket is seeking a qualified vendor or vendors to provide mobile food unit (MFU) services for the peak season months (June, July, August & September) in the Town of Nantucket at two public beach locations without concessions: Dionis Beach and Miacomet Beach. The Contractor(s) will manage, operate, direct, and supervise all aspects and activities concerning the operation of the MFU services.

Background: Nantucket, MA is a vibrant island community located 30 miles southeast of Cape Cod, with a year round population of approximately 11,000 residents. During the summer months, however, Nantucket becomes an attractive tourist destination and popular seaside resort and the island's population swells to over 50,000 during these peak tourist months. The island's beautiful beaches are huge draw for tourists and residents alike. Three of the island's Town-owned beaches have fixed Town-owned concession facilities (Children's Beach, Jetties Beach, and Surfside Beach). Currently, the Town seeks to license MFU services through a competitive bid proposal process to service two other public beaches to better serve the public's needs: Dionis Beach and Miacomet Beach.

Purpose: The purpose of this Request for Proposals is to enter into a contract, or contracts, to staff and manage MFU services at two designated public beach locations and to provide a safe and legal operation of MFUs for the use and convenience of the general public.

Mobile Food Unit Locations and Number of Units: MFU's must park in the designated, posted areas provided at Dionis Beach (up to 2 MFUs) and Miacomet Beach (up to 2 MFUs). See Exhibit A.

MFU Licensing and Registration: Contractors must ensure that MFU's must have all proper licensing and permits by the Nantucket Public Health Department, the Commonwealth of Massachusetts and any other state or local agency requirements. Licenses for winning bids awarded upon completion of all required inspections and payment of Fees. Health Department Plan Review Fee: \$150, Health Department Annual Licensing Fee: \$150, and Annual Town License Fee: \$300

Signage and Entertainment: The awarded Contractor(s) must comply with the Town of Nantucket's bylaws regarding signage, public way obstruction and entertainment (music).

Area Cleanliness and Trash Pick-Up: Awarded contractors are required to pick up around the designated MFU areas throughout the day to maintain tidiness as to do a final clean-up before departing for the day. Additionally, each Contractor is to provide up to two (2) 30-gallon (or larger) trash receptacles that are to be managed by the contractor and disposed of properly off-site (not in Town-owned receptacles). Cleaning fees will be assessed for on-going violations.

Comfort Stations: There are no fixed comfort stations at each of these locations. The Town of Nantucket provides porta-potty services.

Deposit, Rates & Expenses: Minimum bid per MFU is \$1,000. \$500 refundable security deposit to ensure terms of this agreement are followed. Proposer shall indicate how it intends to remunerate the Town (eg., flat rate fee, percentage, lump sum, monthly fee, etc) for these services. All remuneration to the Town is required by



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December 31, 2016.

All expenses pertaining to the MFU operation, including, but not limited to, payroll, payroll taxes, holiday / overtime, workers compensation, management, health benefits, 401(k), liability insurance, damage / loss claims, background / motor vehicle record check, uniforms, equipment, supplies, signage, comment cards, etc, must be paid by the Contractor.

Implementation Timeframe and Hours of Operation: The Town of Nantucket desires these services to be provided at up to seven (7) days per week at the discretion of the Contractor, however weekends are mandatory (Friday, Saturday and Sunday) from the 15th of June and ending the 15th of September between the hours of 11:00 am and 5:00 pm daily. Evening hours are not allowed. MFU's are NOT allowed to park overnight at any of these assigned locations.



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PROPOSER'S STATEMENT OF QUALIFICATIONS

Name of Firm: _____
Address: _____ Zip: _____ Contact
Person: _____ Phone: _____

Please list up to five clients for which you have provided services of similar nature:

(1) Name _____ Address Phone _____ Contact Person

(2) Name _____ Address Phone _____ Contact Person

(3) Name _____ Address Phone _____ Contact Person

(4) Name _____ Address Phone _____ Contact Person

(5) Name _____ Address Phone _____ Contact Person

Number of years in this business under this name _____

Hours of operation Staff availability _____

Include a copy of the most recent financial statement for your company.



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Client References to be included with the Technical (non-price) Proposal:

Please include a list of all clients for whom you have provided a similar service during the past five years. Please include a contact name, company name, address, and telephone number.

The Town expects to check references. One or more poor references may be a basis for determining that a proposer is not responsible and result in a rejection of the proposal. Reference questions will include but may not be limited to print quality and general customer satisfaction.

Price Proposal:

Please provide separate prices for the above-referenced services broken down for the one-year contract and for each location. **Offeror's must use the price proposal form contained within this RFP.**

Insurance Required:

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.

III PROPOSAL EVALUATION PROCEDURE

The Chief Procurement Officer shall designate one or more persons to evaluate responsive non-price proposals according to the evaluation criteria contained below. Once evaluations are complete, the Chief Procurement Officer shall open and review price proposals, and make an award to the successful vendor.

Submittals that comply with the quality requirements will be further evaluated based on the comparative criteria detailed below. Each proposal will be assigned a rating for each comparative criterion and a composite rating.

Finalists will be identified from the evaluation of comparative criteria. The Town will rank these finalists. Price proposal will then be considered. The Town will negotiate a contract with the highest ranked finalist who proposes a price within the Town's budgeted amount. The Town reserves the right to reject any and all proposals if such rejection is in its best interest.

Minimum Quality Criteria/Requirements

Proposals must meet the following minimum criteria/requirements:



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1. Proposals must provide all of the items described in Section I and below.
2. Technical Proposals must provide proof that the business, as currently constituted, has been regularly and actively engaged on a full-time or seasonal basis in mobile food unit operations under the same business name and organization structure; and performing the type of work described in the section of this RFP entitled "SCOPE OF SERVICES" for a minimum of the past three (3) years. Such proof must include contact information for all owners for whom the offeror has performed services over the past three (3) years.
3. Technical Proposals must provide proof of Insurance(s).

Comparative Criteria

HA – Highly Advantageous

A – Advantageous

NA – Not Advantageous

Experience Operating a Mobile Food Unit:

HA – Proposer has operated a mobile food unit for more than three (3) years.

A -- Proposer has operated a mobile food unit between one (1) and three (3) years.

NA -- Proposer has operated for less than one (1) year.

Plan of Services:

HA – Proposer has shown the resources and ability to meet the requirements of a mobile food unit operation at a beach location and has identified a plan of service with the ability to make changes as the Town requires.

A - Proposer has shown the resources and ability to meet the requirements of a mobile food unit operation.

NA – Proposer has not shown the resources or ability to meet the requirements of a mobile food unit operation.

Quality Control:

HA – Proposal demonstrates superior quality control, availability and quality customer service.

A – Proposal demonstrates excellent quality control, availability and quality customer service.

NA – Proposal demonstrates adequate quality control, availability and some customer service.

Customer Service:

HA – Proposal demonstrates a history of superior customer service and public health.

A -- Proposal demonstrates a history of excellent customer service and public health.

NA – Proposal demonstrates a history of adequate customer service and public health.

IV. RULE FOR AWARD

The Town will determine the most advantageous proposal from a responsible and responsive proposer, taking into consideration price and all evaluation criteria set forth in the RFP.



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V. TERM OF CONTRACT

The contract awarded will be for one season ending on September 15, 2016.



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EXHIBIT A: MFU BEACH LOCATIONS

DIONIS BEACH PARKING LOT (DIONIS BEACH ROAD)

MIACOMET BEACH (MIACOMET ROAD)



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BID RESPONSE FORM MOBILE FOOD VEHICLE SERVICES

The undersigned proposes to supply the Town of Nantucket at the contract price(s) listed below for the specifications contained herein.

FEE PROPOSAL FORM Total, firm, fixed all inclusive prices for Service:

Provide Mobile Food Unit Services in the Town of Nantucket

PROPOSED BID RATE : \$_____ DIONIS BEACH (\$Minimum bid \$1,000)

 \$_____ MIACOMET BEACH (\$Minimum bid \$1,000)

Note # 1: There are no reimbursable expenses in this contract.

Total proposal amount for each location specified and in words:

Firm Name: _____

Address: _____

City, State, Zip Code: _____

Contact Person Name: _____

Contact Person Title: _____

Telephone: _____

E-mail Address: _____

Signature: _____ Date Signed: _____



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FEIN or SSN:

NOTE: *If the proposer is a corporation, indicate state of incorporation under signature and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address.*



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CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of person signing bid or proposal

Name of Business



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TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Federal Employer ID Number

Name of Corporation

By: _____
Authorized Signature

Date: _____



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AGREEMENT BETWEEN THE TOWN OF NANTUCKET, MASSACHUSETTS AND XXXXXXX

THIS AGREEMENT made effective _____, 2016, by and between the **TOWN OF NANTUCKET, MASSACHUSETTS**, a municipal corporation, acting by and through its Town Administration, with offices at Town Hall, Nantucket, Massachusetts 02554 (hereinafter called the "TOWN"), and **XXXXXXXXXXXXXXXXXX** whose principal office address and state of incorporation are as set forth on Exhibit A (hereinafter called the "CONTRACTOR").

RECITALS:

WHEREAS, the TOWN desires to retain the CONTRACTOR to provide certain services for the TOWN, as described below, and the CONTRACTOR is willing to accept such engagement, all on the terms hereinafter set forth,

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 ENGAGEMENT OF THE CONTRACTOR

- 1.1 The TOWN hereby engages the CONTRACTOR, and the CONTRACTOR hereby accepts the engagement to perform certain services for the TOWN, as described in Article 2.
- 1.2 In the performance of any service under this Agreement, the CONTRACTOR acts at all times as an independent contractor. There is no relationship of employment or agency between the TOWN, on the one hand, and the CONTRACTOR, on the other, and the TOWN shall not have or exercise any control or direction over the method by which the CONTRACTOR performs its work or functions aside from such control or directions which are consistent with the independent contractor relationship contemplated in the Agreement.

ARTICLE 2 SERVICES OF THE CONTRACTOR

- 2.1 The CONTRACTOR will perform the services described in the Scope of Services set forth on Exhibit A (the "Work").
- 2.2 The CONTRACTOR shall report, and be responsible, to the TOWN and its designee (if any) as set forth on Exhibit A.
- 2.3 There shall be no amendment to the Scope of Services or Work provided for in this Agreement without the written approval of the TOWN. The TOWN shall be under no obligation to pay for any services performed by the CONTRACTOR which are not explicitly agreed to by the TOWN in writing.
- 2.4 The CONTRACTOR represents and warrants to the TOWN that the CONTRACTOR (including all of its personnel, whether employees, agents or independent contractors) will be qualified and duly licensed (if necessary) to perform the services required by this Agreement and further agrees to perform its services in a professional manner, and in accordance with the reasonable standard of care implied by law and all



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applicable local, state or federal ordinances, laws, rules and regulations, all of which are incorporated herein by reference. The CONTRACTOR will obtain and pay for any and all permits, bonds and other items required for the proper and legal performance of the Work.

- 2.5 The CONTRACTOR represents and warrants to the TOWN that it is not a party to any agreement contract or understanding which would in any way restrict or prohibit it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this Agreement.
- 2.6 All written materials and any other documents (whether in the form of "hard" copies, graphics, magnetic media or otherwise) which are received and produced by the CONTRACTOR pursuant to this Agreement shall be deemed to be "work for hire" and shall be and become the property of the TOWN upon the receipt and production of such items by the CONTRACTOR. The TOWN acknowledges that such materials are being prepared with respect to the specific project contemplated hereby and that any reuse of such materials by the TOWN in connection with any other project shall be at the TOWN's sole risk, unless otherwise agreed to by the CONTRACTOR in writing.
- 2.7 The CONTRACTOR shall be responsible for the professional and technical accuracy, and for the coordination, of all designs, drawings, specifications, estimates and other work or services furnished by CONTRACTOR or its consultants and subcontractors. The CONTRACTOR shall perform its work under this Agreement in such a competent and professional manner that detail checking and reviewing by the TOWN shall not be necessary. The CONTRACTOR shall supervise and direct the Work, using its best skills and attention, which shall not be less than such state of skill and attention generally rendered by the design and engineering profession for projects similar to the subject project in scope, difficulty and location.
- 2.8 The CONTRACTOR shall not use any subcontractors or sub-consultants (not identified herein) for any work required under this Agreement unless such use has been approved in advance in writing by the TOWN.
- 2.9 Notwithstanding anything to the contrary in this Agreement, the CONTRACTOR shall not be relieved of its obligations under this Agreement by the TOWN's performance, or failure to perform, any of the TOWN's administrative duties under this Agreement, including, but not limited to, the TOWN's review and/or approval of plans, estimates, programs, documents, materials, work and services furnished by CONTRACTOR.

ARTICLE 3 PERIOD OF SERVICES

- 3.1 Unless otherwise provided on Exhibit A, the term of this Agreement shall commence on the date hereof and continue until the Work is completed to the TOWN's reasonable satisfaction.
- 3.2 The CONTRACTOR shall proceed with the Work promptly after receiving Notice to Proceed and will diligently and faithfully prosecute the Work to completion in accordance with the provisions hereof. In any event, the Work shall be completed not later than the date set forth on Exhibit A. The CONTRACTOR acknowledges that time is of the essence of this Agreement.



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- 3.3 If the CONTRACTOR is delayed in the performance of any of its obligations under this Agreement by the occurrence of an unforeseen event beyond its control such as fire or other casualty, abnormal adverse weather conditions, acts of God (collectively, "Unavoidable Events") which materially and adversely affect its ability to perform the Work, then the time for the CONTRACTOR to perform the Work shall be extended for such time as the TOWN shall reasonably determine is necessary to permit the CONTRACTOR to perform in light of the effects of the Unavoidable Event.

If an Unavoidable Event occurs which, in the TOWN's reasonable determination, makes the performance of the Agreement impossible without the expenditure of additional TOWN funds, the TOWN may, at its option, elect to terminate this Agreement upon thirty (30) days written notice.

ARTICLE 4 PAYMENTS TO THE CONTRACTOR

- 4.1 The compensation due to the CONTRACTOR shall be paid in the amounts, and in the manner, set forth on Exhibit B, attached hereto.
- 4.2 The CONTRACTOR will bill the TOWN at the completion of the work unless otherwise provided on Exhibit B, with one or more invoices broken down to show the quantity of work performed and the percentage of the entire project completed, categories and amount of reimbursable expenses (if any), and provide such supporting data as may be required by the TOWN.
- 4.3 The TOWN will pay the CONTRACTOR upon review and approval of such invoices by the TOWN or its designee.
- 4.4 This engagement may be subject to budgetary restrictions which may limit the total amount of funds available for the Work. Accordingly, unless otherwise stated on Exhibit B, the TOWN will not be obligated to pay any amount in excess of the maximum project amount without the express written approval of the TOWN.
- 4.5 The CONTRACTOR and its sub-contractors shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the CONTRACTOR in the preparation of the documents, as reasonably determined by the TOWN.

ARTICLE 5 TERMINATION

- 5.1 This Agreement may be terminated, with cause, by either the TOWN or CONTRACTOR, upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and proper manner.
- 5.2 The TOWN shall have the right to terminate this Agreement for its convenience and without cause upon ten (10) days written notice.
- 5.3 Following termination of this Agreement, the parties shall be relieved of all further obligations hereunder except:
- (a) unless the TOWN terminates for cause under paragraph 5.1, in which event the TOWN shall be



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under no obligation to make any payments to CONTRACTOR except for those services satisfactorily provided, the TOWN shall remain responsible for payments for the services satisfactorily performed and, unless this Agreement is for a lump-sum, expenses of CONTRACTOR reasonably accrued prior to the effective date of the notice of termination in compliance with this Agreement (less the value of any claims of the TOWN), all as determined by the TOWN in its sole discretion, but for no other amounts, including, without limitation, claims for lost profits on Work not performed; and

- (b) The CONTRACTOR shall remain liable for any damages, expenses or liabilities arising under this Agreement (including its indemnity obligations) with respect to WORK performed pursuant to the Agreement.

ARTICLE 6 INSURANCE AND INDEMNIFICATION

6.1 The CONTRACTOR agrees to indemnify and save the TOWN harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by CONTRACTOR (including all its employees, agents and independent contractors) in performing the Work, or any breach of the terms of this Agreement by such CONTRACTOR and shall reimburse the TOWN for any and all costs, damages and expenses, including reasonable attorney's fees, which the TOWN pays or becomes obligated to pay, by reason of such activities, or breach. The provisions of this Section 6.1 shall be in addition to, and shall not be construed as a limitation on, any other legal rights of the TOWN with respect to the CONTRACTOR, in connection with this Agreement, and shall survive termination or expiration of this Agreement.

6.2 Before commencing work the CONTRACTOR shall obtain and maintain at its expense and from insurance companies of a Best Rating of A or better, which are licensed to do business in the Commonwealth of Massachusetts, insurance as set forth below. If the CONTRACTOR is permitted to sub-contract a material portion of the Work, or is otherwise identifying a third party to perform services for the Town, the CONTRACTOR shall assure that such sub-contractor or other third party also has such insurance.

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.
- (d) Errors and Omissions Insurance of not less than \$2 million per claim. The coverage shall be in force from the date of execution of the Agreement to the date when all design and construction work is completed and accepted by the TOWN, unless, however, the policy is a "claims made policy," in which event the policy shall remain effective and in full force for a period of six (6) years



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after completion of all design and construction work relating to the engagement.

- (e) Such additional insurance as may be required to be carried by the CONTRACTOR by law.
- (f) Such additional insurance as the TOWN may reasonably require, as set forth on Exhibit A.

CONTRACTOR shall maintain such insurance during the term of Agreement and give the TOWN twenty (20) days written notice of any change or cancellation of coverage. Each insurer providing policies hereunder shall waive its rights to subrogate claims against the TOWN. The TOWN will be added as an additional named insured with respect to each such policy and such endorsement shall be reflected on a Certificate of Insurance to be delivered to the TOWN upon the execution of this Agreement and at such times thereafter as the TOWN may reasonably request.

ARTICLE 7 GENERAL PROVISIONS

- 7.1 Upon the expiration or the termination of this Agreement for any reason, all data, drawings, specifications, reports, estimates, summaries and other work product which have been accumulated, developed or prepared by the CONTRACTOR (whether completed or in process) shall become the property of the TOWN upon payment for such to the CONTRACTOR and the CONTRACTOR shall immediately deliver or otherwise make available all such material to the TOWN.
- 7.2 Neither party may assign, transfer or otherwise dispose of this Agreement or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party, and any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.
- 7.3 Except as otherwise expressly provided in this Agreement, any decision or action made by the TOWN relating to this Agreement, its operation, amendment or termination, shall be made by the Board, Committee or Authority of the TOWN specified in the initial paragraph of this Agreement, unless specifically authorized or delegated by a lawful vote of such body.
- 7.4 This Agreement, together with Exhibit A (Contractor, Scope of Work, Term), Exhibit B (Payments), and Exhibit C (Tax Compliance Certificate), and any additional exhibits referred to therein, constitute the entire agreement of TOWN and CONTRACTOR with respect to the matters set forth therein and may not be changed, amended, modified or terms waived except by a writing signed by TOWN and CONTRACTOR. If there is any conflict among the terms set forth in the body of this Agreement and the terms or provisions set forth in Exhibit A or Exhibit B, or in any other attachment hereto, or in any other document or law incorporated by reference herein, such conflict shall be resolved by giving precedence to the party's address above by certified mail, return receipt requested Terms or provisions contained in the following documents in accordance with the following hierarchy, with the topmost document of the highest priority:
 - A. Applicable federal, state and local laws, rules and regulations.
 - B. Amendments to this Agreement, if any.
 - C. Exhibits A and B.



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D. This Agreement.

E. Any other attachments to this Agreement.

To the extent the conflict is not resolved by applying the above hierarchy, the conflict shall be resolved in a manner that results in the highest quantity and best quality of goods and services to the TOWN.

7.5 This Agreement is governed by the law of The Commonwealth of Massachusetts and shall be construed in accordance therewith. The parties agree that exclusive jurisdiction for any action arising out of or relating to this Agreement shall lie with the state and federal courts having jurisdiction over the county and state in which the Town is located and the parties hereby irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any proceeding brought in such location and further irrevocably waive any claims that any such proceeding has been brought in an inconvenient forum.

7.6 Any notices required or allowed shall be to the person's address above by certified mail, return receipt requested.

7.7 Notwithstanding anything to the contrary in this Agreement, this Agreement is subject to the appropriation and availability of funds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

TOWN OF NANTUCKET, MASSACHUSETTS:

CONTRACTOR:

C. Elizabeth Gibson
Town Manager

Name
President

Funding Org/Obj: _____

FEIN: _____

Approved as to Funds Available:

Purchase Order #: _____

Bob Dickinson – Assistant Town Accountant



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CONTRACT EXHIBIT A

CONTRACTOR, SCOPE OF WORK, TERM

1. **Name of Contractor:**
2. **State of Incorporation:**
3. **Principal Office Address:**
4. **Description of Services:**
5. **Person, Department, or Committee, if any, to whom CONTRACTOR reports (§ 2.2):**
6. **Term of Agreement (§3.1):**
7. **Completion Date (§3.2):**
8. **Additional Insurance Coverage (§6.2(e)):**



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AGREEMENT EXHIBIT B

PAYMENTS

1. Lump Sum Method
 - a. **Maximum Project Amount:**
 - b. **Payment Increments:** CONTRACTOR shall submit monthly invoices based on a percentage of work complete work as delineated in a progress report accompanying each invoice for approval and processing by the TOWN.
 - c. **Reimbursable Expenses** (if any): None.



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TAX COMPLIANCE CERTIFICATION EXHIBIT C

Pursuant to M.G.L. 62C, Sec.49A, the undersigned certifies under the penalties of perjury that it, to the best knowledge and belief of management, has filed all state tax returns and paid all state taxes required under law (if any, are so required).

By:

Name, President

Date

FEIN:



Town of Nantucket

PROPOSAL CHECKLIST

In order to simplify the evaluation process and obtain the maximum degree of comparison between proposals, the Town has prepared this checklist for all responders to use in compiling proposals.

- ☐ Current Certificates of Insurance
- ☐ Non-price (technical) proposal
- ☐ Price proposal (separate from the technical proposal)
- ☐ Certificate of Non-Collusion
- ☐ Tax Compliance Certification
- ☐ Signed signature page of Town of Nantucket contract enclosed herein to indicate that responder is willing to enter into said contract.